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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

STEVE NELSON, MICHAEL)	
BOEHM and BONNER PROPRTY)	
DEVELOPMENT, LLC,)	Cause No.
)	
Plaintiffs,)	
)	
vs.)	
)	NOTICE OF REMOVAL
PROJECT SPOKANE, LLC,)	
and SEAN WALSH)	
)	
Defendants.)	
)	

NOTICE TO THE CLERK OF COURT AND PLAINTIFFS STEVE
NELSON, MICHAEL BOEHM and BONNER PROPERTY MANAGEMENT,
LLC:

Please take notice that Defendants, Project Spokane, LLC and Sean Walsh, by and through their counsel, hereby remove to this Court the action originally filed in the Montana Fourth Judicial District Court, Missoula County, Montana, case no. DV-32-2020-604. The grounds for this removal are set forth herein.

STATE COURT ACTION

1. On June 1, 2020, Plaintiffs, Steve Nelson, Michael Boehme, and Bonner Property Development, LLC (collectively referred to as “BPD”) filed their First Amended Complaint (“FAC”) and Demand for Jury Trial. In the FAC, BPD alleges that BPD seeks a judgment: (i) enjoining a public sale of personal property consisting of Bitcoin mining equipment, fixtures, and other assets; (ii) ordering specific performance of a promise to provide a first priority lien position for BPD’s security interest in the property; and (iii) imposing a constructive trust on the property. FAC ¶ 1. BPD further alleges that the property consists of “millions of dollars-worth of computer hardware used in a large Bitcoin mining operation” FAC ¶ 13.

2. The Defendants have informally received a copy of the FAC from BPD. A true and correct copy of the FAC is attached as Exhibit A. A true and correct copy of the (i) initial Complaint and Demand for Jury Trial, (ii) Motion for Temporary Restraining Order, (iii) Notice of Montana Uniform District Court Rule 3 Compliance, (iv) Brief in Support of Motion for Temporary Restraining Order,

(v) Temporary Restraining Order; (vi) Declaration of Stephen Nelson and Exhibits to Nelson Declaration, (vii) Summons Issued on Project Spokane, (viii) Summons Issued on Sean Walsh, and (ix) Notice of Service of Temporary Restraining Order and order to Appear and Show Cause are attached as Exhibits B, C, D, E, F, G, H, I and J. The attached exhibits constitute the current docket in DV-32-2020-604.

3. Pursuant to 28 U.S.C. § 1446(a) these documents comprise all of the “process, pleadings, and orders served” in the state court action with respect to this case. A complete copy of all pleadings and orders issued by the Montana District Court, if any, will be separately filed.

4. This notice of removal is timely pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty days after Project Spokane, LLC and Sean Walsh were served with the Summons and Complaint.

DIVERSITY JURISDICTION

5. This Court has jurisdiction over this case because the parties are of complete diverse citizenship.

6. As of the commencement of this case, the Plaintiffs Steve Nelson and Michael Boehme were citizens of Montana (FAC ¶¶ 3 and 4); both are the members of Plaintiff Bonner Property Development, LLC. FAC ¶¶ 3 and 4.

7. Defendant Project Spokane is a Colorado limited liability company with its principal place of business in Colorado. (FAC ¶ 5). Defendant Sean Walsh

is the only member of Project Spokane, LLC and is a citizen of the Commonwealth of Puerto Rico.

8. A limited liability company is deemed to be a citizen of those states in which its members are citizens. *Johnson v. Columbia Props. Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Evan & Vertin, LLC v. Canyon Holdings, LLC*, 2011 U.S. Dist. LEXIS 929 (D. Mont. 2011). Accordingly, the Plaintiff Bonner Property Development, LLC is a citizen of the state of Montana and the Defendant Project Spokane, LLC is a citizen of the Commonwealth of Puerto Rico.

9. Therefore, pursuant to 28 U.S.C. § 1332(a)(1) the Defendants are citizens of the commonwealth of Puerto Rico and the Plaintiffs are citizens of the state of Montana. Diversity jurisdiction under 28 U.S.C. § 1332(a)(1) and (e) exists. *Cloud I Q LLC v. RADAR Apps, Inc.*, 2020 Bankr. LEXIS 1346, *20 – 21, (Bankr. E.D. Wisc.); *Santiago v. Hosp. Cayetano Colly Toste*, 260 F. Supp 2d 373, 378 (D.C. P.R., 2003).

10. The amount in controversy exceeds \$75,000.00. The Relief sought concerns the rights to “millions of dollars-worth of computer hardware” (the “Property”). FAC ¶ 13. BDP asserts six causes of action sounding in fraud, unjust enrichment, promissory estoppel, equitable estoppel, a declaratory judgment that BDP holds a superior interest in the Property to that of Defendants, and specific performance. All of BDP’s causes of action relate to the parties’

respective rights to the Property. Specifically, BPD seeks relief in the form of a judgment awarding damages, imposing a constructive trust on the Property, and enjoining the Defendants from disposition of the Property.

VENUE

11. Pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) and Local Rules 1.2(c) and 3.2(b), the civil action between these parties, Case No. DV-32-2020-604-OC in Montana Fourth Judicial District, Missoula County, Montana, is properly venued in the United States District Court for the District of Montana, Missoula Division.

STATE COURT TO BE NOTIFIED

12. In accordance with 28 U.S.C. § 1446(d), copies of this Notice of Removal will be served upon BPD's counsel and filed with the Montana Fourth Judicial District Court, Missoula County.

CONCLUSION

WHEREFORE, the foregoing, Defendants, Project Spokane, LLC and Sean Walsh, respectfully remove this action from the Montana Fourth Judicial District Court, Missoula County to this Court for further proceedings.

Dated this 9th day of June, 2020.

James A. Patten
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By: /s/JA Patten
JAMES A. PATTEN
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of June, 2020, a true and correct copy of the foregoing Notice of Removal was served on the following persons by the following means:

<u>1</u>	CM/ECF
<u> </u>	Hand delivery
<u>2</u>	Mail
<u> </u>	Overnight Delivery Service
<u> </u>	Fax
<u>3</u>	E-mail

1. Clerk, U.S. District Court
2. Quentin M Rhoades
Robert Erickson
Rhoades, Siefert & Erickson PLLC
430 Ryman Street
Missoula, MT 59802
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erickson@montanalawyer.com

/s/ JA Patten
for PATTEN, PETERMAN, BEKKEDAHN & GREEN